

NOTICE OF INTENT

Department of Revenue Policy Services Division

Definition of Tangible Personal Property (LAC 61:I.4301.C.*Tangible Personal Property*)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of *tangible personal property* for sales tax purposes.

These proposed amendments to LAC 61:I.4301 provide guidance concerning the *first purchase* of *digital television conversion equipment* as defined in R.S. 47:301(16)(i). That statute excludes the *first purchase* of *digital television conversion equipment* by taxpayers that hold a Federal Communications License pursuant to 47 CFR Part 73 from state sales and use tax. This exclusion applies to purchases made after January 1, 1999. The law also allows local taxing authorities to exempt these transactions by ordinance.

The Rule explains the procedures for claiming a credit for the sales or use taxes paid on *first purchases* of *digital television conversion equipment* made prior to June 25, 2002, and after January 1, 1999. It also notifies purchasers about the requirement to file an annual report that lists all qualifying purchases made for the year.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

* * *

Tangible Personal Property—

a. - d. ...

e. - i. reserved

j. The *first purchase* of *digital television conversion equipment* by a taxpayer that holds a Federal Communications License issued pursuant to 47 CFR Part 73 is excluded from the definition of *tangible personal property* for state sales tax and local sales tax if the local authority adopts this exemption by ordinance.

i. *Digital television conversion equipment*—items listed in R.S. 47:301(16)(i).

ii. *First purchase*—the *first purchase* of each item from the categories of *digital television conversion equipment* listed in R.S. 47:301(16)(i).

iii. License holders may obtain a credit for sales taxes paid on the *first purchase* of *digital television conversion equipment* made after January 1, 1999, and before June 25, 2002, by submitting a request on forms prescribed by the Department of Revenue. Guidelines for claiming the credit will be published in a Revenue Ruling.

iv. License holders may obtain an exemption certificate from the Department of Revenue and make *first purchases* of qualifying digital equipment on or after June 25, 2002, without paying state sales tax or local sales tax in those local jurisdictions that elect to provide an exemption for these purchases. Sales tax paid on *first purchases* of

qualifying digital equipment on or after June 25, 2002, may be refunded as tax paid in error.

v. License holders must submit to the Department of Revenue an annual report of the purchases of digital equipment for which exclusion has been claimed that includes all information required by the Department to verify the value of exclusion claimed. Guidelines for submitting this report will be published in a Revenue Ruling.

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AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Monday, October 28, 2002. A public hearing will be held on Wednesday, October 30, 2002, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Definition of Tangible Personal Property**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of this proposed Regulation, which explains the meaning of "first purchase of digital television conversion equipment" for sales tax purposes, will have no impact on state or local agencies' costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governmental units as a result of this proposed Regulation, since it only reflects the changes made by Act 61 of 2002 Regular Legislative Session. The fiscal note for Act 61 estimated a reduction in state general fund revenues of \$1.1 million in fiscal year 2002-2003 and of more than \$600,000 in subsequent years. The Department of Revenue's interpretation of the language in Act 61 projects a smaller fiscal impact than that estimated in the fiscal note.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed regulation provides guidance on a sales tax exclusion that was passed in the 2002 Regular Legislative Session. Vendors or purchasers of digital television conversion equipment in Louisiana should benefit directly from this exclusion. The Department of Revenue's interpretation of the economic benefit of this exclusion, which is based on specific language contained in Act 61, is less than that estimated in the Act's fiscal note.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed Regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0209#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office